IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 12160 of 1998

DATED: 20.3.2007

Between:

Gollapalli Obaiah & ors petitioner

And

The District Collector,
Nellore & ors Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO. 12160 OF 1998

ORAL ORDER:

This writ petition is filed questioning the action of the respondents in seeking to dispossess the petitioners from their land in Survey Nos. 15/1C, 15/1 and 15/A-1, Ravur village, Indukurpet mandal, Nellore as illegal and arbitrary.

The petitioners claim that they are small farmers owning small extents of lands in survey nos. 15/1C, 15/1 and 15/A-1, Ravur village, Indukurpet mandal, Nellore and cultivating the same. Earlier the Mandal Revenue Officer, caused a publication by beat of tam tam in the village on 16-4-1992 directing the petitioners not to enter into the subject lands. Questioning the said action, the petitioners filed W.P. No. 5195 of 1992 and obtained interim directions in WPMP 6598 of 1992 directing the respondents not to dispossess the petitioners. The said writ petition was disposed of by order dated 21.2.1997. The present writ petition is filed alleging that the third respondent without issuing a notification under section 4 (1) of the Act and declaration under section 6 of the Act is once again trying to dispossess the petitioners from their land and under his instructions the Mandal Surveyor has visited the subject land and surveyed it. Hence, the present writ petition.

Per contra, a counter affidavit was filed by the respondents, *inter alia* stating that land acquisition proceedings were initiated in Ravur, Komarika village to an extent of Ac.5.51 cents in Survey Nos. 13/A1-2,

15/1C and 15/1-2C belonging to Sri Kumbeswaraswamy temple of Komarika for the purpose of providing house sites to weaker section people of Ravur village. That the draft declaration proposals were issued and the District Collector has released an amount of Rs.1,65,300/- with direction to take advance possession of the land. It is stated that the interim orders of this Court in WPMP No6598 of 1992 dated 20.4.1992 were received by the authorities on 30-4-1992, by which date the possession of the land was taken. It is further stated that W.P. No. 5195 of 1992 was disposed of by order dated 24.2.1997 and in terms of the said orders draft notification proposals were prepared by the Mandal Revenue Officer, Indukurpet and in the meanwhile the tenants have again approached this Court by filing the present writ petition and obtained interim orders. It is also stated that the Revenue Divisional Officer along with Mandal Revenue Officer has inspected the land in Survey No. 13/A1-2, 15/1C and 15/1-2C and proposed to acquire the land for providing house sites to weaker sections of Ravur village. It is also stated that the said lands were given on lease and the said lease expired in the year 1980 and there is no extension of lease, much less in favour of the writ petitioners. It is also stated that the possession of the land was taken by Mandal Revenue Officer on 14.4.1992.

Heard the learned counsel for petitioner and learned Government Pleader for Land Acquisition.

The grievance of the petitioners is that the respondents are trying to dispossess them without following due process of law prescribed under Land Acquisition Act, on the other hand respondents claim that the land was acquired for providing house sites to weaker sections by following the procedure contemplated under law. Though, the respondents filed a detailed counter running to eight pages

contending that land was acquired for providing house sites to weaker sections, there is no reference made as to on what date the notification under section

4 (1) and declaration under section 6 of the Act were issued. It is merely sated that the Mandal Revenue Officer has taken possession of the land, which alone is not sufficient to hold that land acquisition proceedings were initiated. It is to be noted that if really the respondents followed the due process prescribed under law for acquisition of the subject lands, nothing prevented them from referring to the dates of section 4 (1) notification and section 6 declarations in the counter affidavit. Thus, there is some force in the argument of the petitioners that respondents are trying to dispossess them without following due process of law.

Hence, the writ petition is allowed directing the respondents not to dispossess the petitioners without following the due process of law. It is needless to mention that if the respondents require acquisition of the subject land for providing house sites to weaker sections or for any other public purpose, they are at liberty to do so by following due process of law. No costs.

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GOPALA KRISHNA TAMADA,J

DATE: 20.3.2007
TVK

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